

Message Text

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ACTION SNM-05

INFO OCT-01 EUR-12 ISO-00 PPTE-00 CA-01 DEAE-00
CIAE-00 INR-10 IO-14 JUSE-00 NSAE-00 CTME-00
TRSE-00 ICA-20 NSC-05 OES-09 OMB-01 SCS-06 L-03
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R 181910Z AUG 78
FM AMEMBASSY PARIS
TO SECSTATE WASHDC 6293

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E.O. 11652: N/A
TAGS: SNAR
SUBJECT: NARCOTICS LAWS

REF: STATE 203321

1. WE ARE SUBMITTING BELOW DETAILED ANSWERS TO QUESTIONNAIRE SENT IN STATE 170187 CONCERNING THE POSSESSION AND TRAFFICKING OF DRUGS. THIS INFORMATION HAS BEEN REVIEWED BY FRENCH EXPERTS IN THE MINISTRY OF JUSTICE, AND OTHER MINISTRIES WHERE NECESSARY. INFORMATION ON CULTIVATION, FINANCE AND CRIMINAL PROCEDURES WILL FOLLOW IN SEPTEMBER WHEN GOVERNMENT EXPERTS, WHOSE REVIEW IS ESSENTIAL GIVEN ITS TECHNICAL NATURE, WILL HAVE RETURNED FROM VACATION.

2. POSSESSION.

A) ARTICLES 627 AND 628 OF THE PUBLIC HEALTH CODE (LAW OF DECEMBER 31, 1970) WHICH GOVERN THIS AREA, MAKE NO DISTINCTION AMONG DIFFERENT NARCOTICS WITH RESPECT TO POSSESSION AND WITH RESPECT TO THE DEFINITION OF THE OFFENSE INVOLVED. THE LAW IMPLICATES THOSE WHO CONTRAVENE THE PUBLIC REGULATIONS CONCERNING SUBSTANCES OR VENOMOUS PLANTS
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CLASSIFIED AS NARCOTICS IN TABLE B OF ARTICLE R5165 OF THE HEALTH CODE, AS WELL AS INDIAN HEMP AND GHAT.

B) THE LAW DOES NOT FIX A MINIMUM QUANTITY FOR AN OFFENSE. NEVERTHELESS, MINISTRY OF JUSTICE CIRCULARS GIVE THE GOVERNMENT THE AUTHORITY TO BRING COURT ACTIONS FOR THE POSSESSION OF HASHISH. A CIRCULAR OF AUGUST 25, 1971 SPECIFIES THAT ACTIONS AGAINST

PERSONS FOUND IN POSSESSION OF NEGLIGIBLE QUANTITIES OF NARCOTICS (SUCH AS 2 DECIGRAMS, 5 DECIGRAMS, OR 1 GRAM OF INDIAN HEMP) ARE INAPPROPRIATE. A RECENT CIRCULAR OF MAY 17, 1978 NOTES THAT IT WOULD NOT BE APPROPRIATE TO BRING AN ACTION FOR THE POSSESSION OF A SMALL QUANTITY OF HASHISH WHICH IS REASONABLY CONSIDERED TO BE FOR THE PERSONAL CONSUMPTION OF THE USER. NO OTHER GUIDANCE HAS BEEN FURNISHED FOR NARCOTICS OTHER THAN HASHISH WITH RESPECT TO BRINGING ACTIONS BEFORE THE COURT.

C) PENALTIES FOR THE TRANSPORT, POSSESSION, OFFERING OR ACQUISITION OF NARCOTICS RANGE FROM TWO TO 10 YEARS IN PRISON AND/OR 5,000 TO 50,000 FRANCS FINE. THESE PENALTIES ARE EXTENDED TO FROM FIVE TO 10 YEARS IN THE CASE OF THE INVOLVEMENT OF A MINOR.

THESE PENALTIES ARE: GREATER THAN THOSE PROVIDED FOR FIRST USE, IN WHICH CASE THE PRISON SENTENCE RANGES FROM TWO MONTHS TO ONE YEAR AND THE FINE 500 TO 5,000 FRANCS; LESS THAN THOSE PROVIDED FOR THE IMPORTATION, PRODUCTION OR ILLEGAL EXPORT, IN WHICH THE PRISON TERM RANGES FROM 10 TO 20 YEARS.

THE COURT MAY, HOWEVER, RENDER A LESS SEVERE SENTENCE THAN THE THEORETICAL MINIMUM, TAKING INTO ACCOUNT THE EXISTENCE OF ATTENUATING CIRCUMSTANCES. IT MAY ALSO DECIDE TO SUSPEND THE SENTENCE WHEN CERTAIN CONDITIONS ARE FULFILLED. THE ENCOURAGEMENT OF UNCLASSIFIED

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ANOTHER PERSON TO USE NARCOTICS IS PUNISHED BY A PRISON TERM OF ONE TO FIVE YEARS AND A FINE OF 5,000 TO 500,000 FRANCS (ARTICLE L-630 OF THE PUBLIC HEALTH CODE).

FINALLY, A SENTENCE OF TWO TO TEN YEARS IS PROVIDED FOR THOSE WHO FACILITATE THE USE OF NARCOTICS ON THEIR PREMISES OR BY ANY OTHER MEANS, AND FOR THOSE WHO HAVE THESE PRODUCTS DELIVERED TO OTHERS BY MEANS OF FALSE PRESCRIPTIONS.

3. TRAFFICKING:

A) TRAFFICKING IS CONSIDERED A GENERAL OFFENSE FOR ALL SUBSTANCES CLASSIFIED AS NARCOTICS.

B) AS DESCRIBED IN PARAGRAPH 2-C ABOVE, THE PENALTIES FOR NARCOTICS TRAFFICKING ARE QUITE STERN (10 TO 20 YEARS). IN THE CASE OF SECOND OFFENDERS, THE PENALTIES ARE DOUBLED -- TO A MAXIMUM OF 40 YEARS PRISON. IN ALL CASES, THE PROCEDURE FOLLOWS THE CORRECTIONAL ROUTE IN THE FRENCH JUDICIAL SYSTEM (CORRECTIONAL TRIBUNALS) RATHER THAN THE CRIMINAL ROUTE (THE COURT OF ASSISES).

THE COURTS MAY SUSPEND THE CIVIL RIGHTS OF THE UNCLASSIFIED

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OFFENDER FOR A PERIOD OF FROM FIVE TO 10 YEARS. THEY ALSO HAVE THE POWER TO EXCLUDE THE OFFENDER FROM THE COUNTRY FOR A PERIOD OF TWO TO FIVE YEARS, WITHDRAW THE PASSPORT OF THE INDIVIDUAL AND SUSPEND HIS DRIVER'S LICENSE FOR A PERIOD OF AT LEAST THREE YEARS. THERE ARE NO SPECIAL REGULATIONS CONCERNING PROVISIONAL LIBERTY OR BAIL.

C) THE OFFENSE IS DEFINED BY ITS CONSUMMATION. HOWEVER, THE ATTEMPT TO COMMIT AN OFFENSE IS PUNISHED IN THE SAME WAY AS THE OFFENSE ITSELF. THERE IS NO MINIMUM QUANTITY SPECIFIED IN THE DEFINITION OF NARCOTICS TRAFFICKING.

D) IN FRENCH LAW, THE ASSOCIATION AND INTENT WITH A VIEW TO COMMITTING AN OFFENSE IS PUNISHED IN THE SAME WAY AS THE OFFENSE ITSELF.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: NARCOTICS, LAW, DRUG TRAFFIC
Control Number: n/a
Copy: SINGLE
Draft Date: 18 aug 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 jan 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978PARIS27740
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780339-0102
Format: TEL
From: PARIS
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780849/aaaabofl.tel
Line Count: 167
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: eb5fe360-c288-dd11-92da-001cc4696bcc
Office: ACTION SNM
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 78 STATE 203321
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 13 jun 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1694706
Secure: OPEN
Status: NATIVE
Subject: NARCOTICS LAWS
TAGS: SNAR, FR
To: STATE
Type: TE
vdkgvwkey: odhc://SAS/SAS.dbo.SAS_Docs/eb5fe360-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014